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BUSINESS HEALTHY IN COMPETITION OF PARTNERSHIP *Persaingan Usaha yang Sehat Dalam Kemitraan*

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ABSTRACT

The principles of economic democracy broke through the overall activities of the society and the State, which sectors of the economy who undertakes by the Constitution as the Foundation of the constitutional business activities in pursuit of national development goals, and is the nation's commitment to the partnership philosophy as well as for businessmen. Although the philosophy of partnership so ideal, but when economic growth is uneven, then it will cause the distance (social inequality) between the powerful rich with the small weak Agreement are build oligopoly if the offender attempts to make agreements with other businessmen to do production and mastery or marketing goods and or services that could result in a monopoly or competition is not healthy.

Keywords: partnerships, Competition, Monopoly efforts

ABSTRAK: *Prinsip-prinsip demokrasi ekonomi menerobos keseluruhan kegiatan masyarakat dan negara, di antaranya adalah pengejawantahannya ke dalam sektor ekonomi yang diwadahi oleh UUD 1945 sebagai landasan konstitusional kegiatan usaha dalam mencapai tujuan pembangunan nasional, serta merupakan komitmen bangsa sekaligus sebagai filosofi kemitraan bagi pelaku usaha. Meskipun filosofi kemitraan begitu ideal, tetapi apabila pertumbuhan ekonomi tidak merata, maka akan menimbulkan jarak (ketimpangan sosial) antara si kaya yang kuat dengan si kecil yang lemah. Perjanjian bersifat oligopoli apabila pelaku usaha membuat perjanjian dengan pelaku usaha lainnya untuk melakukan penguasaan produksi dan atau pemasaran barang dan atau jasa yang dapat mengakibatkan monopoli atau persaingan tidak sehat.*

Kata kunci: Kemitraan, Monopoli, Persaingan usaha.

I. INTRODUCTION

The Republic of Indonesia is a country based on Pancasila and the 1945 Constitution. As a country that has been independent, aims to carry out national development in order to realize a fair and prosperous societies that uneven material and spiritual, in a unitary State of the Republic of Indonesia

To achieve the development goals of the Government continuously implement national development based on the practice of Pancasila which covers all aspects of the life of the nation. Government as the highest power organization authorized to redirect and protect the public in the exercise of its activities

The community as the main perpetrator of the development potential and an important position in realizing national development goals. The activities of the society and the Government should

support each other in one step toward achievement of a just and prosperous society. With regard to national development goals, development in all bidangpun performed with one point of the weight that is on the development of the field of law and economics.

The principles of economic democracy broke through the overall activities of the society and the State, which are pengejawantahannya into sectors of the economy who undertakes by the 1945 Constitution as the Foundation of the constitutional business activities in pursuit of national development goals, and is the nation's commitment to the partnership philosophy as well as for businessmen. Although the philosophy of partnership so ideal, but when economic growth is uneven, then it will cause the distance (social inequalities) among the rich who are strong with a weak little one. This imbalance causes the position of bargaining (bargaining position) unbalanced

relationship is created so that it can bring forth the actions that make use of the dominant position.

To address social inequalities, as well as giving legal protection for perpetrators of small businesses, the Government set

1. Act No. 9 of the year 1995 concerning small business
2. Act No. 5 of year 1999 on the prohibition of the practice of the monopoly and competition of unhealthy Businesses
3. Government Regulation (PP) number 44 Year 1997 about Partnership
4. Government Regulation No. 32-year 1988 about coaching and Small Business Development.

The groundbreaking partnership between great entrepreneurs with small businesses with the term "adopted child" is based on the philosophy of family by holding on to the principle of mutual benefit. To encourage economic growth and the creation of equitable development through the expansion of employment and opportunity. Although the crisis hit Indonesia since year 1997, proven small business sector can still survive at least not roll mats, even many take advantages of the economic crisis. Many farmers farmed, clove and brown shrimp are suddenly rich due to the sudden export value soaring because the value of the dollar rise. At a time when big businesses decided working relationship with employees the reasons of efficiency, it is precisely small businesses can accommodate a lot of labor. thought such partnerships between small businesses with venture medium/large businesses still encountered many obstacles in its implementation.

Through the partnership, sometimes business medium/large businesses treat

small businesses not as it should be. This means that large businesses do not help the development of small businesses and even the existence of a partnership is thus great effort that is increasingly growing, the partnership merely proves that big companies care about the social environment when small businesses less benefit as purpose partnerships i.e. help the development of small businesses. Medium/large business ventures as partner builder has not fully perform their obligations properly. There is a partnership where a small business as a supplier part needs of medium/large businesses such as shops. On the pattern of these partnerships, small businesses sometimes unnoticed significance. Having confirmed that the payment should be executed in cash each time small businesses supplying goods. But in fact, the business medium/large businesses pay small businesses after the goods sold or paid after one or two times the supply of goods, not to mention when late payments so that small businesses are the difficulty of regulating capital is indeed a bit.

Through the partnership agreement can be created that cause entrepreneur's medium/large business master/hogging certain business so difficult for small business to enter the venture or may happen to a group of businessmen have partnered to master of business ranging from upstream to downstream as monopolistic practices of the new order regime.

Based on the results of the discussion of the end of the year, economic experts in Makassar (dawn, December 31, 2002) conclude that small businesses are having problems in the field of capital and licensing. In the field of licensing small businessmen feel hampered by red tape many doors that allow the existence of wild charges (illegal charges). Whereas in the

field of capital, the bank as lender and financing institutions the non-bank less siding on small businesses. They feel the need to simplify the system of awarding credit. The problems faced by small businesses is due to the assumption that the small and medium enterprises (SMEs) have less promising business prospects, among them was caused by the company's management and low culture of businessmen who still patterned traditional thought.

The success of economic development by itself raise the aspirations of the community in this endeavor. Various challenges and competition appear. Globalization makes borders a country increasingly diminished, making the scene a competition in the field of business is getting tight. The era of economic globalization, and information technology bring rapid change, and simultaneous. Therefore, the ability to identify the types of businesses and potential entrepreneurs who efficiently is a challenge for trade, especially after Indonesia entered the era of free trade is loaded with competition.

To be able to achieve democracy in the corporate world, every citizen of the should be were given the same opportunity to participate in the production process and marketing of the goods or services in a healthy business climate, so as not to give rise to the existence of the concentration of market power in a particular business group only. The effort to bring about a healthy, on 5 March 1999 the Government issued Act No. 5 of year 1999 on the prohibition of the practice of Business Competition and Monopoly is not healthy. The existence of this legislation the application of principles of economic democracy into the market are expected to materialize, considering this reform in the era of the rule of law continue to be fought.

Antitrust laws are like a fresh breeze that blows in the Reformation period shortly after the fascist new order regime. Monopoly and competition of unhealthy businesses can occur in a business partnership, when and where the only reason trend businessmen doing dishonest competition can do to win business competition is unhealthy.

II. DISCUSSION

The partnership is a collaboration between small business and medium-sized businesses or with great effort by observing the principles of mutual need, mutually reinforcing and mutually beneficial based on Government Regulation No. 44 the year 1977 about partnerships. By sticking to the principle of interdependence and mutual benefit, the partnership may provide the solution of inequality-social inequality such as meratanya no chance of trying and inequality of income.

Partnerships between small businesses with medium-large business/venture is the efforts made by the Government to foster and develop a small business so that small businesses are able to strengthen itself into a tough and independent effort and can develop into a great effort.

Mohammad Jafar Hafsa, (2000:10) suggests that:

Small business is the people's economic activities small-scale which has a net worth of most Rp. 200 million excluding land and buildings or places of business memilikihasil the most annual sales of Rp 1 billion. While the secondary businesses are economic activities that have the net worth or annual sales results greater than net worth and results of annual sales for small businesses.

Kansil, CST. (1997:189) outlines the small business criteria as follows:

1. Has a net worth of most IDR. 200 million excluding land and buildings

2. Have the results of the annual sales at most 1 billion
3. Belonging to a citizen of Indonesia
4. Standing or send it is not a subsidiary or branch company.

Based on PP No. 44 in 1997 about the Partnership defined that the partnerships implemented with pattern:

1. Inti-Plasma
2. Sub-Contracting
3. General trade
4. Franchise
5. Agency

The pattern of the core plasma is the relationship of partnership between small businesses with medium or large business venture, in which medium or large business ventures acts as a small business as the core and plasma. The core of the company carrying out the construction ranging from the provision of the means of production, technical guidance to marketing results with production. While the plasma companies meet the needs of the company in accordance with the agreement.

Mohammad Jafar Hafsah, [2000:69] suggested that the primacy of core plasma pattern is:

- a. The plasma core partnerships benefit reciprocal between the large or medium entrepreneurs as core with small entrepreneurs as plasma through large or medium entrepreneurs give the construction and provision of the means of production, processing of results as well as guidance, marketing. This means a big businessman has divided the business risks and opportunities with small entrepreneurs as plasma. Therefore, through the core of the plasma model will be created by interdependence and mutual benefit.

- b. The plasma core partnerships can act as empowering small entrepreneurs in technology, capital, institutional, and others.
- c. Small entrepreneurs who mentored was able to able to meet the economic scale so that it can achieve efficiency.
- d. In partnership with core plasma in large or medium businessman have a wider market, so that it can develop commodity, has the prominence and able to compete in national and international markets.
- e. The success of the partnership core plasma can become an attraction for large or medium-sized entrepreneurs to build new partnership.
- f. With the growth of the plasma core partnerships will grow new economic centers, at once can be equitable so as to prevent the social gap.

The pattern of Subcontracting relationship is a partnership between the large or medium businesses with small business, in which small enterprises producing components that required great effort as part of its production. This partnership has advantages i.e. can encourage technology transfer, capital, including the guarantee of product marketing partner company. This is in accordance with the results of the research Watanabe 1983 (Moh Jafar Hafsah, 2000:73) outlines that:

Japan's experience proved the success of the pattern of sub contract in the form of a transfer of technology, capital and skills in the industry. The success of this happening in the automotive industry. Toyota's as one of the industry in Japan has managed to develop the industry by implementing the pattern of sub contract to

manufacture the components of automotive kind too small to medium enterprise or Corporation in Japan.

Erna in the results of his research year 1994 found some shortcomings in subcontracting partnership pattern are as follows:

Subcontracting relationships often trend isolate small producers as a subcontract on a form of monopoly and relationship monopoly, especially in the provision raw materials and marketing, i.e. the occurrence of division in the price of goods, control products, a payment system that is often too late and the presence of symptoms occurred often exploits the energy to chase the target production.

The pattern of subcontracting research above is done at the Pekalongan batik industry. The existence of the above fact, coaching against the pattern of subcontracting is urgently needed by the Government in order to protect small businesses.

General trade patterns are the relationship between small business with venture medium or large business production results market a small business or a small business supplying the needs required by medium and large businesses as partners.

This partnership pattern similar to regular trade relations between sellers and buyers because of corporate partners to market the partnership object and therefore also this partnership requires huge funds, because each party finance themselves and their respective businesses.

The pattern of the franchise is a partnership in which the giver franchise [major effort] gives the parties the use of the license, trademark and distribution channels the company a franchise to a

recipient [small or medium-sized businesses] accompanied the aid management guidance. The advantages of a franchise that is the recipient of a franchise can acquire funding sources while simultaneously saving funds and expand the network, while the disadvantage was the recipient of very large franchise depends on the owner of the franchise. Examples of MC. Donald, Kentucky, Texas, Coca cola and others.

The pattern of the Agency is a partnership in which small businesses are given special rights to market goods and services business medium/large businesses. In this pattern of medium/large business undertakings responsible for goods and services. Small businesses are responsible for finding customers.

The sense of competition and antitrust Effort not healthy

According to the General provisions of article (1) UUAM confirmed that, monopoly is the mastery of production and/or marketing of goods and/or services for the use of the service by a single perpetrator or a group of businessmen. Next on paragraph (2) confirmed that the practice is centralizing economic power monopoly by one or more perpetrators attempt that resulted in the acquisition of manufacturing and or marketing of goods and or services giving rise to particular business competition and can be detrimental to the public interest.

Monopoly to smother the centralization of economic power on a person or a specific group of people just so the other businessmen who usually more leman could not compete. The concentration of economic power on a particular person is the Act that leads to unhealthy competition because the monopoly removes the chance of others for taking part and this opportunity is used to

dredge the advantage most for the sake of its own pockets.

Implicitly, the 1945 Constitution also recognizes the existence of a form of monopoly in the form of a mastery of sectors that ruled his life. It is realized from the mastery made by State-Owned Enterprises over a particular field. For example, electrical controlled Pertamina PLN monopolize the oil and gas, PT. Railroad controlled the railways, and so on. The monopoly of the State as set forth in article 33 of the Constitution 1945 was an exception from UUAM. The monopoly of the State is aimed at implementing legislation.

The Purpose of Antitrust Laws (UUAM):

1. Safeguarding the public interest and increase the economic efficiency
2. Foster a conducive business climate
3. Prevent practice monopoly or unhealthy business competition
4. Creating the effectiveness and efficiency in business activities

Based on general provisions article 1 paragraph (6) UUAM, confirmed that business Competition is unhealthy competition between businessmen in the exercise of the activities of manufacturing and or marketing of goods and services effected by way of a dishonest or unlawful or inhibit competition efforts.

Indicators of unhealthy business competition according to the article above is how dishonest, against the law and impede competition efforts. It can also be used as an indicator of a healthy business competition by way of elaborate in a ' contrary. Honest competition is a competition conducted in accordance with the applicable rules, not cheating or not lying so as not to harm others. In tort are met when the deed is the subject of the law

contrary to the obligations and or regulations as well as violating the rights of others so as to cause any harm, whereas the Covenant that does not harm others are agreements or trade activities in partnership based on the principle of interdependence and mutual benefit in achieving the goal of the effort.

Through government partnerships foster a business climate in the aspect of the competition as set forth in Act No. 9 of the year 1995 article 6 paragraph (1) and the policy for:

1. Enhance cooperation of fellow small businesses in the form of cooperatives, associations, and business group set to strengthen the bargaining position of small business
2. Prevent the formation of market structures that can give birth to unusual competition in the form of build oligopoly, monopoly, and monopsonic to the detriment of small business
3. Prevent the occurrence of market domination and the centralization of efforts by individuals or specific groups to the detriment of small business.

In addition to the readiness of the Government through other legislation/policy, employers and communities need to intervene could encourage and promote training activities to improve the quality of human resources (small businesses) are constantly changing dynamically according the development progress.

The Implementation of a Healthy Business Competition in Partnership

Government foster a business climate in the aspect of partnership for the realization of mutually beneficial

cooperation and prevent the occurrence of things that can be detrimental to small businesses in the performance of business transactions with medium and large businesses. Business competition is a process of competition between companies. Competition can bring two impacts i.e. positive and negative. Positive competition in that competition tend to produce efficient and with competition also can be detrimental to another party if the competition was done fraudulently/are not healthy.

Based on research results, this section will be described implementation of business competition on two private companies, namely PT Sari Utama Flour Mills Achieve and PT Hadji Kalla.

1.Partnership Agreement of PT Sari Utama Flour Mills Achieve

PT. Autonomy is one of the major companies in Makassar that are in the process of its production partner with some of the smaller companies, companies like Malkatek and several companies of the expedition.

Partnering PT. Achieve with the company Malkatek an enterprise engaged in the convection based on agreement. Rights and obligations born of that agreement is the company Malkatek provides bags of flour according to the volume of quality it has. Supply the bags and yarn from the Malkatek conducted per month with payment obligations by PT. Autonomy also conducted monthly by way of transfer account.

Partnership between PT. Achieve with the company Malkatek when analyzed according to PP. No. 44 in 1997 in accordance with the pattern of sub contract i.e., attempts to produce a medium/large business give help to small businesses the opportunity to work on part of the

production and or other components of the business partners.

Special marketing PT. Achieve partnered with several distributors in eastern part of Indonesia's territory. For the region of Makassar which are the new companies and rice Mas. The distributor agreement, each party has a right and an obligation that is based on the substance of the agreement between PT distributor. Achieve with the distributor.

Distributors obliged to sell products (flour) from PT. Brdikari according to his ability. In this case there is no sales targets to be achieved by the distributor because in principle distributors purchase products (flour) from PT. Autonomy. But there is a difference from the usual purchase because of the existence of the agreement the distributor, then the distributor's purchase price below the market price and the quality of the goods is guaranteed. The advantage of a distributor is the difference between the purchase price of its principals (PT. Bedikari) and the selling price to the consumer.

Related to pricing (Price fixing) to different distributors with market prices in UUAM not prohibited all such price is a reflection of the existence of marginal cost. When PT. Achieve selling to distributors will no difference in cost when compared to PT. Achieve selling directly to the end consumer because the distributor can immediately pick up the goods at the place and in great numbers. Thus the PT. Autonomy does not issue an additional cost to the expedition of goods and marketing product is assured.

The difference in pricing against similar goods prohibited by article 5 UUAM IE when against goods or services for sale there is no difference in cost to the goods/services to the consumer. If the costs incurred by a seller to a consumer

with different other consumer, then logically the selling price will certainly be different. Due to PT. Achieve has raised a distributor, then so does competition happen, PT. Autonomy does not sell products directly to consumers because when this is done, then the PT. Autonomy can be deadly for small businesses that can move in the same field.

Specifics products are sold by distributors is flour with a brand of padlock, Ghatotkacha, mountain, and compass. Although there is no obligation to sell flour products. Achieve, but distributors are free to sell other brands of flour. In this case the Finance and Administration Division Manager, (interview, 15 June 2003), States that: distributors who market the product PT. Autonomy may only sell the flour with other brands because of the distributors not working on behalf of PT. Autonomy but on behalf of the distributors themselves. PT. Autonomy does not know anything about wherever they are the wheat market

The working mechanism of the distributor is acting for herself with a gain from the difference of the purchase with the sales price. PT. Autonomy does not set the benchmark price in a distributor reselling. Therefore, the distributor is free to sell products (flour) in accordance with the market price.

Analysis of working mechanism of distributors according to the provisions of article 4 and article 9 UUAM that build oligopoly agreement criteria and zoning are not met because of the distributor, PT. Achieve no emphasis to distributors to sell only wheat marketed products/PT. Autonomy. Therefore, distributors can market other brands of flour, then prohibited Agreements (build oligopoly) UUAM in article 4 are not met, because the Treaty which prohibited in UUAM i.e. the agreement by businessmen who are jointly performing mastery and production or

marketing of goods or services and which may lead to the occurrence of monopolistic practices and/or unhealthy business competition.

Wheat marketing products. Special autonomy region Makassar is not monopolized by PT. Achieve because there is no barrier for other entrepreneurs to market their production, such as that conducted by PT. Sari Boga can market the product wheat. Thus, there was no violation of the provisions of article 9 UUAM about zoning, because that is prohibited in the Article this is the businessmen made a deal with rival businessmen aiming to divide the territory of marketing or market allocation against goods and or services so it can result in the occurrence of monopolistic practices and unhealthy business competition or.

2. Partnership Agreement of PT. Hadji Kalla

PT. Hadji Kalla in his efforts in the field of automotive trade relations based on partnership that is predicated on the assumption of agreement the dealer (dealer agreement) with PT. Toyota Astra Motor. PT Toyota Astra Motor in the mechanism has partnered with five dealerships in the region of Indonesia. The dealer in question is:

1. Astra Auto 2000 for Jakarta, Java, Sumatra, and Borneo.
2. New Ratna Motor for Semarang
3. PT. Hadji Kalla for the area of South Sulawesi, Central and Southeast.
4. Supreme Auto Mall for the area, part of Sumatra and Nusa Tenggara part.
5. PT. A timeless passion for the area of North Sulawesi, Maluku, and Irian Jaya.

Dealer terms in principle the same as the distributor. The difference between the two is only on the use of the term which jemis effort. Dealer used in the field of automotive industry whereas distributors are used in the field of trade in goods and services. The main task of the dealer is selling belongings of its principals. Between the principal and the consumer no direct relationship does not even know the consumer. Distributors dealing directly with consumers as well as in running his business acted on his own and profit from the difference between the purchase with the sale.

The substance of the agreement between PT dealer. PT Toyota Astra Motor. Hadji Kalla covers the rights and obligations of the parties, the expiration of the contract, the applicable contract, specifications of products that will be sold (brand), after-sales services, the possibility of the appointment of an agent, and things relating to the tort. Analysis of patterns of partnership agreement between PT dealer. Hadji Kalla with PT. Toyota Astra Motor is in accordance with the general pattern of trade due to the collaboration of the parties regarding the field of marketing, provision of business location or the receipt of supplies from small businesses as business partners. PT. Hadji Kalla as a partner to market the partnership object i.e. the car brand Toyota. The parties in this general pattern of trade partnership must have a huge cost because each Fund itself.

Liability of PT. Hadji Kalla as the dealer is paying an amount of money on purchasing the goods belonging to PT. Toyota Astra Motor and organizes its own expedition of goods he had purchased. Rights obtained from the obligation is in the form of profits from the difference between the purchase with the sale, while the obligation of PT. Toyota Astra Motor is to provide with guaranteed quality, whereas its

due is obtaining payment for goods that have been purchased by the dealer.

The contract is valid for six months and will be evaluated at the end of the sixth month. Because the dealer is the spearhead of the sales, then the principal in this case PT. Toyota Astra Motor prioritizes working mechanism of professional dealers. The success of the dealer is the profit of its principals, neither the opposite.

Working area contracts in this partnership, namely PT. Hadji Kalla authorized to market/sell goods (Toyota brand cars) in South Sulawesi, central region, and the Southeast. This working relationship is based on an exclusive agreement (exclusive dealer) because there is only one dealer may sell the car brand Toyota IE PT. Hadji Kalla. If there are other companies who want to sell a car with Toyota brand sales in the PT. Hadji Kalla, then the company must buy from PT. Hadji Kalla.

Product specifications and brand sold by PT. Hadji Kalla car brand Toyota is. This type of car is a sedan, a deer, and a truck. PT. Toyota Astra Motor oblige to PT. Hadji Kalla to only market cars with Toyota brand in South Sulawesi, central region, and the Southeast. In the Group's PT. Hadji Kalla there is another company that marketed the car with other brands such as:

1. PT. Makassar Kingdom market cars with Daihatsu brand. PT. Makassar Kingdom partnered with PT. Astra Daihatsu
2. PT. The main core of the car market a car brand KIA. PT. The core of the main Car partner with PT. KIA Motors International.

Both companies mentioned above have no relationship with PT. Hdji Kalla in terms of marketing the car brand Toyota. Each company have partnered with other

companies, it's just a coincidence that the two companies including in PT. Hadji Kalla Group.

Based on the partnership agreement, PT. Hadji Kalla can open sub dealers in the territory the agreed marketing. The term operational to sub dealers by PT. Hadji Kalla called Branch company. PT. Hadji Kalla Toyota Division for South and Southeast Sulawesi, there are as many as 15 companies. All branches are equipped with show room, workshop, and spare parts for ease of service. The working relationship between PT. Hadji Kalla with branches of companies subordinate, while between PT. Hadji Kalla with PT. Toyota Astra Motor coordination in nature, meaning that both have equal employment relationship.

If the agreement between PT. Hadji Kalla with PT. Toyota Astra Motor is analyzed based on UUAM, then there is an indicator of its substance fulfilling agreements build oligopoly, zoning, and the agreement is closed. Therefore, the agreement meets the criteria above, engender the activities of monopoly in marketing of goods.

III. CONCLUSION

Agreements are build oligopoly if the offender attempts to make agreements with other businessmen to do production and mastery or marketing goods and or services that could result in a monopoly or competition is not healthy. Treaty of PT. Toyota Astra Motor with PT. Hadji Kalla are build oligopoly because with that agreement simply PT. Hadji Kalla who could sell Toyota cars. With a similarly controlled the marketing of cars with Toyota brand and percentage of market domination in South Sulawesi, Central, and southeastern exceeds 75% as referred to in article 4 paragraph (2) UUAM.

Zoning prohibited by UUAM because of the presence of the Division/area restrictions to market, may give rise to the existence of a monopoly by certain companies and lead to other entrepreneurs is difficult to take part in it. This can also have an impact on consumers because consumers no choice, except if you want to buy an item outside of the monopoly of the entrepreneur and if it is, then it is likely a greater cost to the detriment of consumers themselves.

Criteria covered agreements i.e. the existence of a pact made with other businessmen and meet one of the elements in article 15 UUAM. Satisfy these elements, not required the existence of a monopoly or competition act of cheating, but so is proven to meet one of the elements of Article 15 UUAM, then that agreement violates UUAM. This article adheres to doctrine per Se illegal, i.e. any agreement or action that is prohibited, it would be contrary to applicable law regardless of the consequences brought about by such actions, how far to rein in market competition or give rise to monopoly.

The items are met by agreement partnership between PT. Toyota Astra Motor and PT. Hadji Kalla i.e. businessmen are prohibited from making agreements with other businessmen that contains the requirement that the parties receive the goods and or services will only supply or not supply the returned goods and or services to a particular party and certain places or on (article 15 paragraph (1) UUAM).

Because there are some criteria of the Treaty as article described above are met, then the partnership agreement between Pt Toyota Astra Motor with PT. Hadji Kalla can lead to the existence of a monopoly on action marketing the car brand Toyota in South Sulawesi, Central, and southeastern, with reference to article 17 UUAM.

Monopoly actions prohibited by article 17 is categorized as UUAM the Rule of

agreement or action i.e. Reason businessmen are not automatically prohibited. Must be proven first to what extent such action harms consumers, even though the deeds attributed to him, in fact has been proven. Agreement or the new deed is considered unlawful if the agreement or deed that has negative impact on competition. Until now, the implementation of partnership efforts by both of the above with small business/business medium at Makassar as not to cause harm to other entrepreneurs, so it does not have a negative impact on business competition.

Partnership agreement between PT. PT Toyota Astra Motor. Hadji Kalla meets the criteria of the agreement prohibited activities/UUAM such as build oligopoly, zoning, the Treaty is closed, and the activities of the monopoly, but until now has not been proven there are parties who feel

aggrieved and thus the partnership agreement between PT. PT Toyota Astra Motor. Hadji Kalla did not inhibit business competition.

BIBLIOGRAPHY

- Ahmad Yani dan Gunawan Widjaja, 2000, *Hukum Anti Monopoli*, PT. RajaGrafindo Persada, Jakarta.
- Kansil,CST. 1997, *Pokok-pokok Hukum Perseroan Terbatas*, PT.Pustaka Sinar Harapan, Jakarta
- Munir Fuady, 1999, *Hukum Anti Monopoli*, PT. Citra Aditya Bakti, Bandung
- Mohammad Jafar Hafsah, 2000, *Kemitraan Usaha Konsepsi dan Strategi*, Pustaka Sinar Harapan, Jakarta.
- Tulus T.H.Tambunan, 2002, *Usaha Kecil dan Menengah Di Indonesia Beberapa Issu Penting*, Salemba Empat, Jakarta.